

Message Text

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TO AMEMBASSY WARSAW PRIORITY

AMEMBASSY SOFIA

INFO AMEMBASSY ROME

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ROME PASS US DELEGATION RE US/ITALY FISHERY TALKS

E.O. 11652: N/A

TAGS: EFIS, XN, PL, IT, BU

SUBJECT: US/ITALY FISHERY TALKS

1. ON 22 JULY USCG TAMORA SEIZED IT FV AMORUSO QUARTO FOR VIOLATION OF 16 USC 1081 FOR RETENTION OF CSFR BY FAILURE TO RETURN CSFR SAFELY TO SEA. VESSEL WAS BOARDED 20 JULY AND OBSERVED CULLING CATCH. CREW MADE SOME EFFORTS, WHILE UNDER OBSERVATION, TO RETURN CSFR TO SEA. VESSEL WAS AGAIN BOARDED 21 JULY AFTER LARGE HAULBACK. UNTIL OBSERVERS NOTICED, NO EFFORTS WERE MADE TO RETURN CSFR TO SEA. IT WAS EVIDENT TO BOARDING PARTY THAT CSFR WERE TREATED AS OTHER DISCARDS, AND ALLOWED TO REMAIN ON DECK UNTIL PROCESSING COMPLETED. THIS WAS OF SUFFICIENT DURATION TO KILL ALL CSFR IN CATCH. NINE DEAD OR INJURED

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LOBSTER WERE OBSERVED DURING INSPECTION. VESSEL SEIZED

SHORTLY THEREAFTER AND TAKEN TO PORT NEWARK, NEW JERSEY.

2. ON 26 JULY, MR. CONSENTINO, FIRST SECRETARY OF COMMERCIAL OFFICE, IT, EMBASSY PAID A CALL ON DEPT (OFA) TO QUOTE DISCUSS UNQUOTE THE \$250,000 FINE PROPOSED BY THE US ATTORNEY AND TO PRESENT AIDE MEMOIRE CONTENTS OF WHICH FOLLOW: QUOTE. THE EMBASSY OF ITALY REFERS TO THE SEIZURE AND DETENTION IN THE PORT OF NEWARK OF THE ITALIAN FISHING VESSEL AMORUSO IV, CHARGED WITH ALLEGED

VIOLATION OF THE BARTLETT ACT.

IN THIS REGARD, THE EMBASSY OF ITALY WISHES TO DRAW THE ATTENTION OF THE DEPARTMENT OF STATE TO THE AMOUNT OF FINE REQUESTED BY THE US AUTHORITIES FOR AN EXTRA-JUDICIAL SETTLEMENT OF THE CASE. IT IS THE VIEW OF THIS EMBASSY THAT SUCH AMOUNT, INDICATED IN THE AREA OF \$250,000 APPEARS TO BE EXCEEDINGLY HIGH IN RELATION TO THE CIRCUMSTANCES OF THE ALLEGED VIOLATION AS THEY HAVE BEEN RECOUNTED BY THE CAPTAIN OF THE ITALIAN VESSEL.

THE ITALIAN EMBASSY WOULD, THEREFORE, BE GRATEFUL IF THE STATE DEPARTMENT COULD INTERPOSE ITS GOOD OFFICES WITH THE RELEVANT US AUTHORITIES WITH THE VIEW OF OBTAINING A SUBSTANTIAL MITIGATION OF THE PROPOSED PENALTY BASED ON THE FOLLOWING POINTS: (1) THE ITALIAN VESSEL AMORUSO IV HAS NEVER INCURRED AN ACTUAL VIOLATION OF THE BARTLETT ACT; (2) IT DOES NOT APPEAR THAT THE ALLEGED UNSAFE WAY OF RETURNING TO THE SEA THE LOBSTER ACCIDENTALLY CAUGHT SHOULD HAVE BEEN ATTRIBUTED TO DELIBERATE MISHANDLING BUT RATHER TO A DELAY NECESSITATED IN THE PROCESSING OF THE CATCH DUE TO THE TECHNICAL FACT THAT A NEW PORTION OF THE VESSEL'S HOLD HAD TO BE REFRIGERATED BECAUSE OF TWO CONSECUTIVE CATCHES; (3) THE PROPOSED PENALTY WOULD RESULT IN AN UNBEARABLE BURDEN FOR THE VESSEL IN CONSIDERATION OF THE FINANCIAL SIZE OF THE OWNER'S FIRM AND ALSO TAKING INTO ACCOUNT THE LOSSES ALREADY INCURRED AND WHICH WILL UNCLASSIFIED

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BE INCURRED FOR THE MANY DAYS OF ENFORCED IDLENESS AT NEWARK; (4) THE PROPOSED PENALTY WOULD FURTHERMORE RESULT IN A HIGHER BURDEN FOR THE OWNER IF IT IS CONSIDERED THAT THE EVENTUAL PAYMENT HAS TO BE MADE UNDER THE ITALIAN CURRENCY REGULATIONS, WHICH PROVIDE FOR A 50 PERCENT NON-INTEREST-BEARING DEPOSIT FOR ALL FOREIGN PAYMENTS; (5) A MEETING HAS BEEN PROPOSED AND TENTATIVELY SCHEDULED FOR THE 13TH OF AUGUST IN ROME BETWEEN FISHING

OFFICIALS OF US AND ITALY, IN ORDER TO DISCUSS MATTERS OF COMMON INTEREST, AND AMONG OTHERS THE ACTIVITIES REGULATED BY THE BARTLETT ACT. A FEELING OF THE PUBLIC OPINION IN ITALY THAT AN ITALIAN FISHING VESSEL MIGHT HAVE BEEN SUBJECTED TO SEVERE HARDSHIP FOR ITS ACTIVITIES OFF THE ATLANTIC COAST OF THE UNITED STATES WOULD UNDOUBTEDLY IMPARE THE GENERAL ATMOSPHERE IN WHICH THE MEETING WOULD TAKE PLACE. WASHINGTON, D.C., JULY 26, 1976. UNQUOTE.

3. IN INFORMAL EXCHANGE WHICH FOLLOWED, WE EMPHASIZED THAT THE US ATTORNEY, AND NOT THE DEPARTMENT OF STATE, WAS RESPONSIBLE FOR DETERMINING THE AMOUNT OF ANY PROPOSED FINE, AND OUTLINED SEVERAL FACTORS WHICH WE THOUGHT MAY HAVE PLAYED A ROLE IN SETTLEMENT ON \$250,000: (1) PRESENT CASE WAS THIRD SEIZURE OF IT FV FOR RETENTION OF CSFR, (MORE THAN ANY OTHER NATION FISHING OFF EAST COAST) AND PREVIOUS WARNING ON CSFR WAS GIVEN AMOROSO QUARTO 23 OCT; (2) HIGH RISK OF GROUND-FISH AND CSFR BY-CATCH IN SQUID FISHERY WAS SEEN TO REQUIRE SPECIAL CARE IN CONDUCT OF THIS FISHERY; (3) SECOND BOARDING AND INSPECTION WHICH REVEALED TO INSPECTION PARTY LACK OF GOOD FAITH BY CREW INsofar AS EFFORTS TO COMPLY WITH LAW, AS IN CASE OF FIRST BOARDING, TAKEN ONLY WHEN PRESENCE OF INSPECTION PARTY WAS KNOWN. WE ADDED THAT RETENTION OF CSFR FOR USE BY CREW WOULD LIKELY BE REGARDED AS A MORE SERIOUS VIOLATION, AND THUS A HEAVIER FINE COULD HAVE BEEN EXPECTED IF CSFR WAS BEING RETAINED IN THIS MANNER.

4. MR. CONSENTINO NOTED THAT FOLLOWING THE ICNAF SPECIAL ROME MEETING IN JANUARY 1975 US AND ITALIAN OFFICIALS HAD MET TO DISCUSS RELATED FISHERIES ISSUES. UNCLASSIFIED

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HE STATED THAT ITALIANS REQUESTED THAT SOME PROVISION BE MADE FOR NOTIFYING ITALIAN EMBASSY WHEN INDIVIDUAL VESSELS WERE ISSUED WARNINGS OR FOUND BY CG TO BE ENGAGED IN PRACTICES LIKELY TO LEAD TO VIOLATION OF US LAW. HE NOTED THAT SUCH PROCEDURES MAY HAVE PREVENTED THE PRESENT INCIDENT FROM OCCURRING. WE DID NOT COMMENT DIRECTLY ON THIS POINT. WE DID OBSERVE THAT THE UPCOMING BILATERAL DISCUSSIONS WOULD PROVIDE AN OPPORTUNITY FOR ADDITIONAL DISCUSSIONS ON THIS POINT, AND THAT MR. SCHOWENGERDT, WHO HAD ATTENDED THE SUBJECT MEETING, WOULD BE PARTICIPATING IN THE AUGUST TALKS. KISSINGER

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